



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,371	06/13/2001	Zhong-Min Wei	21829/91 (EBC-007)	4973

7590 09/05/2002
Michael L. Goldman
NIXON PEABODY LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603

EXAMINER

KUBELIK, ANNE R

ART UNIT	PAPER NUMBER
----------	--------------

1638

DATE MAILED: 09/05/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

VACATED

Art Unit: 1638

1. The reply filed on 26 July, 2002, is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicant did not elect a group or a species of pathogen/protein as required in the restriction requirement mailed 7 July, 2002. See 37 CFR 1.111.

To reiterate, If Applicant elects Group I, Applicant is additionally required to select the species of pathogen from which the hypersensitive response elicitor is derived.

If Applicant elects Group II, Applicant is additionally required to select (a) the species of pathogen from which nucleic acid encoding the hypersensitive response elicitor is derived and (b) the protein (from those listed in claim 32) encoded by the first DNA.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne R. Kubelik, whose telephone number is (703) 308-5059. The examiner can normally be reached Monday through Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached at (703) 306-3218. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the patent analyst, Kimberly Davis, at (703) 305-3015.

Anne R. Kubelik, Ph.D.
August 30, 2002



AMY J. NELSON, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600